

NEBRASKA

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DEPT. OF ENVIRONMENT AND ENERGY

MAY 20 2020



Pete Ricketts, Governor

CERTIFIED MAIL
Return Receipt Requested

Scott Tingelhoff, General Manager
AltEn, LLC
1344 County Road 10
Mead, NE 68041

RE: AltEn, LLC Land Application of Special Waste Request
NDEQ ID: 84069
Program ID: NE0204447

Dear Mr. Tingelhoff,

On May 12, 2020, you submitted an application on behalf of AltEn, LLC, seeking a one-time approval for the land application of distiller's grain contaminated with pesticides and fungicides. This application is substantially incomplete and does not meet the requirements of Title 132, Chapter 13. Below is a discussion of the missing and incomplete elements.

Title 132, Chapter 13, establishes the minimum requirements that must be met in order for the NDEE to approve a special waste land application request.

Section 002.05 requires a physical description of the waste. The main concern is that the material density is not provided. In addition, the description is brown in color with a mild distiller's grain odor. This is inconsistent with NDEE observations and complaints registered regarding this material. It would be more appropriate to describe this material as having a range of colors from green to dark brown or black with a strong chemical/distiller's grain odor. It is important to note that while odor is not directly regulated by the NDEE it is an indicator of other potential environmental issues and should be properly reported.

Section 002.06 requires a detailed description/analysis of the chemical properties of the waste, including but not limited to: pH, reactivity, leachability, total metals, and (in this case only) the chemical composition for agricultural chemicals. In your application you provide a suitable pH range and indicate that you have conducted a TCLP test for metals. This test should have been included with the application with test results from any testing conducted to determine the chemical composition of the distiller's grain and the potential for the agricultural compounds to leach into the soil and groundwater.



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Section 002.09 requires a description of the proposed disposal method. While the application does specify land application at agronomic rates with best management practices the NDEE needs additional information. The agronomic analysis should have been completed prior to the submittal of this application and attached for NDEE review. At a minimum, application rates, methodologies, and nuisance control (odor, disease vector, animal control, etc.) need to be addressed in the description.

Section 002.10 permits the NDEE to request any other information about the waste to ensure safe disposal. Under this provision the NDEE is requiring written confirmation from the Nebraska Department of Agriculture that AltEn, LLC has communicated their land application plans with the Nebraska Department of Agriculture and ensured that land application does not violate the stop use, stop sale order in place for the distiller's grain.

Section 003.01 requires that the application identify nearby inhabited residences, businesses, and facilities frequented by the public. You propose a land application radius of 20 - 30 miles of AltEn, LLC. Within this 30 mile radius are multiple villages, towns, and cities, including Omaha and Lincoln; this requires additional consideration of specific land application sites to ensure protection of human health and the environment.

Section 003.02 (and by association Section 003.05) requires AltEn, LLC to determine the distance of the disposal site from drinking water wells (003.020) and any wellhead protection areas (003.05). With such a large radius and several cities within the proposed area it is very likely that there are multiple drinking water wells and wellhead protection areas within the proposed disposal area and special protections need to be included for those wells.

Section 003.03 requires you to identify any surface water features such as streams, lakes, and ponds that may be affected by the disposal of the waste. This has not been performed and needs to be evaluated to ensure the protection of endangered species, prevent potential drinking water contamination, and to prevent contact with the general public at recreational water bodies.

Section 003.04 requires the application to identify any 100 year floodplains. This evaluation has not been provided and is critical considering the unusual flooding that occurred in 2019 and has the potential to occur again in 2020.

Section 003.06 requires that the soil properties of any land application be evaluated for the suitability of land application of a special waste. The NDEE considers this to be a critical component because if a site with poor geologic properties is selected, the potential for groundwater contamination increases significantly. Similarly, Section 003.07 requires an evaluation of the depth to groundwater. The NDEE considers this closely linked to the site soil properties, and both must be considered simultaneously.

After careful consideration, the NDEE is denying this land application request. The NDEE has expressed concern regarding the composition of the distiller's grain and AltEn, LLC's, management of this waste material. These concerns were expressed through Notices of Violation issued to AltEn, LLC on October 10, 2019, and January 30, 2020. AltEn, LLC has not provided any information to support the position that land application of the distiller's grain is a sound environmental practice. On May 17, 2019, the Nebraska Department of Agriculture issued a stop use-stop sale order prohibiting the land application of distiller's grains being produced by AltEn, LLC. AltEn, LLC is prohibited from land applying the distiller's grain as a soil conditioner.

If you have any questions regarding this letter please contact me via e-mail at daniel.lemaistre@nebraska.gov or via telephone at 402-471-4495.

Sincerely,



Daniel LeMaistre, PE
Waste Permit Section Supervisor

Cc: Tanner Shaw, AltEn, LLC